



---

## 2009 Decisions

## Opinions of the United States Court of Appeals for the Third Circuit

6-24-2009

# USA v. Gunter

Follow this and additional works at: [https://digitalcommons.law.villanova.edu/thirdcircuit\\_2009](https://digitalcommons.law.villanova.edu/thirdcircuit_2009)

---

### Recommended Citation

"USA v. Gunter" (2009). *2009 Decisions*. 1147.

[https://digitalcommons.law.villanova.edu/thirdcircuit\\_2009/1147](https://digitalcommons.law.villanova.edu/thirdcircuit_2009/1147)

This decision is brought to you for free and open access by the Opinions of the United States Court of Appeals for the Third Circuit at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in 2009 Decisions by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository.

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

No. 07-1291

---

UNITED STATES OF AMERICA,  
v.  
JOHNNY GUNTER,  
*Appellant*

---

On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
(D.C. Criminal No. 04-cr-00295-01)  
District Judge: Honorable James T. Giles

---

Opinion and Judgment Entered June 9, 2008  
Petition for Writ of Certiorari Granted April 27, 2009  
Submitted on Remand from the Supreme Court  
of the United States June 16, 2009

Before: FISHER, JORDAN, and VAN ANTWERPEN, *Circuit Judges*.

---

JUDGMENT ORDER

---

Appellant's conviction is AFFIRMED. The judgment of sentence entered by the District Court is VACATED and this case is REMANDED to the District Court for sentencing in light of *Spears v. United States*, 129 S. Ct. 840, 555 U.S. ---- (2009).

By the Court:  
/s/ Franklin S. Van Antwerpen  
Circuit Judge

DATED: June 24, 2009

cc: David L. McColgin, Esq.  
Francis C. Barbieri Jr., Esq.